

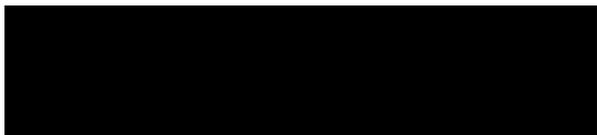
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U.S. Department of Homeland Security  
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Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



FILE:



Office: ROME, ITALY

Date:

MAR 29 2004

IN RE:

Applicant:



APPLICATION:

Application for Refugee Travel Document Pursuant to 8 C.F.R. § 223.1(b).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Regional Immigration Attaché, Rome, Italy, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Afghanistan, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. § 223.1(b). The District Director denied the application for a refugee travel document after determining that the applicant did not qualify for the issuance of a refugee travel document from an overseas office because he departed the United States in possession of a valid refugee travel document. *See District Director Decision* dated April 28, 2003.

On appeal, the applicant states that he traveled to Russia in order to participate in the production of a feature film. The applicant further states that he became ill and he was admitted to a hospital from October 15, 2002, to November 20, 2002. His previously issued refugee travel document expired on October 25, 2002, and he was not able to travel to the United States prior to the expiration of his travel document.

The regulation at 8 C.F.R. § 223.2 states in pertinent part:

(ii) Discretionary authority to adjudicate an application from an alien not within the United States. As a matter of discretion, a district director having jurisdiction over a port-of-entry or a pre-inspection station where an alien is an applicant for admission, or an overseas district director having jurisdiction over the place where an alien is physically present, may accept and adjudicate an application for a refugee travel document from an alien who previously had been admitted to the United States as a refugee, or who previously had been granted asylum status in the United States, and who had departed from the United States without having applied for such refugee travel document, provided:

- (A) The alien submits a Form I-131, Application for Travel Document, with the fee required under §103.7(b)(1) of this chapter;
- (B) The district director is satisfied that the alien did not intend to abandon his or her refugee status at the time of departure from the United States;
- (C) The alien did not engage in any activities while outside the United States that would be inconsistent with continued refugee or asylee status; and
- (D) The alien has been outside the United States for less than 1 year since his or her last departure

The regulation at 8 C.F.R. 223.2(b)(2) states in pertinent part:

(i) *General.* Except as otherwise provided in this section, an application may be approved if filed by a person who is in the United States at the time of application, and either holds valid refugee status under section 207 of the Act, valid asylum status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylum or refugee status.

The record reflects that the applicant departed the United States in possession of a valid refugee travel document and therefore the overseas office cannot issue a travel document abroad. Since the applicant was not physically present in the United States when he filed his application for a refugee travel document the application may not be approved. This decision is without prejudice to the filing of a Form I-131, for Humanitarian Parole with the

Immigration and Customs Enforcement, Officer of International Affairs, Parole and Humanitarian Affairs Branch.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that the applicant is eligible for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.